



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal  
Date: September 2018  
Status: Immediate

*Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.*

***Umfolozi Sugar Planters Limited v Isimangaliso Wetland Park Authority (873/2017) [2018]***  
**ZASCA 144 (1 October 2018)**

Today the Supreme Court of Appeal dismissed an appeal against a judgment of the KwaZulu-Natal Division of the High Court, Durban.

The first respondent is the management authority for the iSimangaliso Wetland Park, which is recognised as a World Heritage Site. The St Lucia Estuary forms the core of the iSimangaliso Wetland Park. It is driven at any given point in time by five rivers and sea water inflows through an estuarine mouth. Of the rivers, the Umfolozi is the largest. Historically, the St Lucia Estuary operated as one estuarine system, which closed during low and drought periods, with breaching occurring naturally during the rainy season. On occasion, the closure of the mouth caused back flooding into the floodplain. In 2005, rainfalls caused a rise in the Umfolozi river levels resulting in back flooding of the farms of the second appellant, Mr Paul Van Rooyen and the third appellant, Mr Petros Maphumulo, who are shareholders of the first appellant, the Umfolozi Sugar Planters Limited approached the high court for an order to compel iSimangaliso to breach the river mouth to stop the back flooding on their properties..

The appellants' initial urgent application was settled and an order was taken by consent between the parties. However, the appellants brought two further urgent applications against the respondents alleging that iSimangaliso was in contempt of the consent order. By the time the matter came to be argued before Moodley J during May 2016, the appellants no longer persisted in the original relief sought in their notice of motion. They claimed that iSimangaliso was acting arbitrarily and without any lawful basis. The court a quo concluded that iSimangaliso's actions were grounded in and sanctioned by law, including the World Heritage Convention, which was

incorporated into law in the World Heritage Convention Act. The appellants' urgent application and two contempt applications were subsequently dismissed.

In this court, it was intimated on behalf of the appellants that the 'urgent interim applications and contempt applications are not pursued on appeal'. The appellants sought certain amended prayers on appeal sought. The court (per Ponnann J) held that the failure by the appellants to properly put up a case in support of the amended relief meant that iSimangaliso was denied the opportunity to deal issuably with those matters. Prayer 1 of the amended relief sought an order: '[t]hat the process of developing the estuarine management plan proceeds according to the timetable set out by iSimangaliso in its affidavit of 6 May 2016', however the 'estuarine management plan' relied upon by the appellants as the basis for the relief, had been overtaken by the approval and publication of a new plan. At the hearing of the application for leave to appeal, the approval of a new management plan was known. The respondents accordingly submitted that no practical relief can follow for the appellants from this appeal. The court then concluded that prayer 1 should fall away. With regards to prayer 2, the appellants sought a declarator. This court agreed. It accordingly dismissed the appeal with costs.